

## **EXHIBIT B**

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31 TOMORROWNOW, INC.

32  
33 UNITED STATES DISTRICT COURT  
34  
35 NORTHERN DISTRICT OF CALIFORNIA  
36  
37 SAN FRANCISCO DIVISION

38 ORACLE CORPORATION, et al.,

39 Case No. 07-CV-1658 PJH

40 Plaintiffs,

41 v.  
42 DEFENDANT TOMORROWNOW,  
43 INC.'S FIRST AMENDED AND  
44 SUPPLEMENTAL RESPONSE TO  
45 PLAINTIFF ORACLE USA, INC.'S  
46 SECOND SET OF  
47 INTERROGATORIES

48 SAP AG, et al.,

49 Defendants.

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51

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53 HUI-113068v1

54 TOMORROWNOW'S FIRST AMENDED AND  
55 SUPP. RESP. TO INTERROGATORIES  
56 Case No. 07-CV-1658 PJH

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5 **INTERROGATORY NO. 14:**

6 For each local environment Identified in Your responses to Interrogatories 12 and 13,  
7 Identify all Customers who received support based on the Use of that environment, and a detailed  
8 description of that support (such as, for example, the retrofit tax updates testified to by Shelley  
9 Nelson (Shelley Nelson Dep. at 32:19-34:13 (Oct. 30, 2007)) including, where applicable,  
10 Identification of the name, number, version or other Identifying information of the product  
11 provided as part of the support.

12 **RESPONSE TO INTERROGATORY NO. 14:**

13 THIS RESPONSE IS DESIGNATED AS HIGHLY CONFIDENTIAL.

14 TomorrowNow objects that this interrogatory is cumulative, compound, unduly  
15 burdensome and oppressive to the extent it seeks to require TomorrowNow to attempt to evaluate  
16 millions of pages of documents and data relating to customer support that have been created over  
17 several years. Subject to and without waiving the foregoing objections and the General  
18 Responses and Objections, TomorrowNow responds as follows: Generally, to the extent a  
19 particular entity is or was a TomorrowNow customer, and when TomorrowNow maintains an  
20 environment on that customer's behalf, TomorrowNow provided or provides support to that  
21 customer utilizing that environment. For updates and/or fixes to Peoplesoft and JDE products,  
22 TomorrowNow has generally used the customer's environment(s) (whether maintained by  
23 TomorrowNow or the customer) to create or test the updates and/or fixes. TomorrowNow is  
24 aware of certain instances where an environment maintained on behalf of one customer may have  
25 been used to create or test updates and/or fixes for other customers. *See, e.g.,* Tr. of October 30,  
26 2007 Deposition of Mark Kreutz, at 197:8-199:25; Tr. of October 30, 2007 Deposition of Shelley  
27 Nelson at 32:19-41:17, 53:13-55:7; Dec. 6, 2007 Deposition of Shelley Nelson at 126:4-139:3,  
28 145:1-14, 160:16-161:5, 185:3-16, 195:24-196:20. Additional information responsive to this

1 interrogatory as to specific customers may be derived or ascertained from TomorrowNow's  
 2 business records; specifically, the relevant specific customer support efforts, updates, and fixes  
 3 are set forth and described in detail in TomorrowNow's emails among development and support  
 4 engineers and its databases of customer service information, including its SAS databases (which  
 5 have been previously produced, in native format, at TN-OR 00009569), which have been or will  
 6 be included in TomorrowNow's production of documents and on which TomorrowNow relies to  
 7 further respond to this interrogatory pursuant to Rule 33(d).

8 **AMENDED AND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 14:**

9 TomorrowNow amends the confidentiality designation of its prior response to be  
 10 designated as Confidential.

11 TomorrowNow supplements its prior response as follows:

12 **THIS RESPONSE IS DESIGNATED AS CONFIDENTIAL.**

13 TomorrowNow further responds that information responsive to this interrogatory can be  
 14 found in the SAS database. *See* TN-OR 03775478, TN(Hard drive).67. TomorrowNow further  
 15 responds that Plaintiffs have questioned TomorrowNow's witnesses extensively in deposition on  
 16 topics related to this interrogatory. For example, Plaintiffs requested deposition testimony on  
 17 TomorrowNow's "creation and use of Customer Local Environments, including without  
 18 limitation: b. The manner and method by which Customer Local Environments were created,  
 19 stored and Used by You; . . . d. The total number of Customer Local Environments created for  
 20 each identified customer; e. The name, release, and version of all PSFT or JDE branded Software  
 21 obtained and/or copied to create each identified Customer Local Environment; f. The identity and  
 22 description of all Customer Local Environments maintained in any way by You relating to  
 23 Customers for whom You had ceased to provide support services; g. The identity and description  
 24 of all Customer Local Environments Used by You in any way to support any Customer other than  
 25 the one that provided the Software used to create the Customer Local Environment; . . . [and] l.  
 26 The process by which Customer Local Environments were Used as part of the ordinary course of  
 27 business for SAP TN, including without limitation to on-boarding of new Customers; support of  
 28 Customer cases, issues, and problems; reactive and proactive development of bug fixes, updates,

1 patches, explanations, or regulatory changes for Customers; and testing of other operating  
 2 systems levels. . . ." See January 22, 2008 Amended Notice of Deposition of TomorrowNow, Inc.  
 3 Pursuant to Fed. R. Civ. P. 30(b)(6).

4 In response to these noticed topics and during the course of individual depositions of  
 5 TomorrowNow witnesses, TomorrowNow has provided more than sufficient testimony on the use  
 6 of TomorrowNow's local environments. See, e.g., February 6-7, 2008 Deposition of John Baugh  
 7 Pursuant to Rule 30(b)(6); February 19, 2008 Deposition of Mark Kreutz Pursuant to Rule  
 8 30(b)(6); December 6, 2007 Deposition Testimony of Shelley Nelson Pursuant to Rule 30(b)(6);  
 9 June 25, 2008 Deposition of Rod Russell Pursuant to Rule 30(b)(6); April 1, 2008 Deposition of  
 10 Kathy Williams Pursuant to Rule 30(b)(6); April 1, 2008 Deposition of Catherine Hyde Pursuant  
 11 to Rule 30(b)(6); April 18, 2008 Deposition of Shelley Nelson; December 5, 2008 Deposition of  
 12 Matthew Bowden; February 12, 2009 Deposition of Catherine Hyde; May 12, 2009 Deposition of  
 13 Catherine Hyde; February 5, 2009 Deposition of Rod Russell; April 10, 2009 Deposition of Patti  
 14 VonFeldt; February 26, 2009 Deposition for Andrew Nelson; April 29, 2009 Deposition of  
 15 Andrew Nelson.

16 TomorrowNow further states that it would be impossible and unreasonable to expect  
 17 TomorrowNow to provide a detailed description of the support provided with each local  
 18 environment. This interrogatory calls for tracking information for hundreds of environments  
 19 from 2002 until the local environments were shut down on April 30, 2008. TomorrowNow relies  
 20 upon all testimony and each document cited in this Supplemental Response to further respond to  
 21 this interrogatory pursuant to Rule 33(d).

22 Dated: May 22, 2009

JONES DAY

23 By:   
 24 \_\_\_\_\_  
 25 Jason McDonell

26 Counsel for Defendants  
 27 SAP AG, SAP AMERICA, INC., and  
 28 TOMORROWNOW, INC.

**PROOF OF SERVICE**

I, Grace Wayte, declare:

I am a citizen of the United States and employed in San Francisco County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 555 California Street, 26<sup>th</sup> Floor, San Francisco, California 94104. On May 22, 2009, I served a copy of the attached document(s):

**DEFENDANT TOMORROWNOW, INC.'S FIRST AMENDED AND  
SUPPLEMENTAL RESPONSE TO PLAINTIFF ORACLE USA, INC.'S  
SECOND SET OF INTERROGATORIES**

- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
  - by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed as set forth below.
  - by placing the document(s) listed above in a sealed Federal Express envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a Federal Express agent for delivery.
  - by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
  - by transmitting via e-mail or electronic transmission the document(s) listed above to the person(s) at the e-mail address(es) set forth below.

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Executed on May 22, 2009, at Palo Alto, California.

By: Grace Wayte  
Grace Wayte

**TOMORROWNOW'S FIRST AMENDED AND  
SUPP. RESP. TO INTERROGATORIES**